

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VII  
901 NORTH FIFTH STREET  
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

IN THE MATTER OF	)	
	)	Docket No. CWA-07-2003-0296
	)	
Robertson Properties, Inc.	)	
Clymar Estates	)	CONSENT AGREEMENT AND
N. Brooklyn & NE 92 <sup>nd</sup> Street	)	FINAL ORDER
Kansas City, Missouri	)	
	)	
Respondent	)	
	)	
Proceedings under Section 309(g) of the	)	
Clean Water Act, 33 U.S.C. § 1319(g)	)	
	)	

**I. PRELIMINARY STATEMENT**

These proceedings were initiated pursuant to Section 309(g) of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (hereafter CWA), 33 U.S.C. § 1319(g). On September 16, 2003, the United States Environmental Protection Agency (EPA or Complainant), Region VII issued a Complaint, Notice of Proposed Penalty and Notice of Opportunity for Hearing (Complaint) to Robertson Properties, Inc. (Respondent). The Complaint alleged a violation of the CWA by Respondent at its Clymar Estates construction site in Kansas City, Missouri.

The Complainant and Respondent subsequently entered into negotiations in an attempt to settle the allegations contained in the Complaint. This Consent Agreement and Final Order (CAFO) is the result of such negotiations and resolves all issues relating to the administrative claims arising from the allegations in the Complaint.

**II. CONSENT AGREEMENT**

1. For purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this Consent Agreement and the Final Order set forth below.

2. Respondent neither admits nor denies the factual allegations set forth in the Complaint.

3. Respondent agrees not to contest the terms and conditions set forth in this CAFO in this or subsequent proceedings, to enforce the terms of this CAFO and agrees not to appeal the Final Order set forth below.

4. Respondent explicitly waives its right to a hearing on any issue of fact or law set forth in the Complaint.

5. Respondent consents to the issuance of the Order hereinafter recited and consents to the payment of the civil penalty as set forth in the Final Order.

6. Respondent and EPA each agree to bear their own costs and attorneys' fees.

7. Each signatory of this CAFO certifies he or she is fully authorized to enter into the terms of the CAFO.

### **III. FINAL ORDER**

Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a civil penalty of Nine Thousand Two Hundred Thirteen Dollars (\$9,213) within thirty (30) days of receipt of a copy of this fully executed CAFO. Payment shall be by cashier's or certified check, made payable to "Treasurer, United States of America," and referencing EPA Docket No. CWA-07-2003-0296, and remitted to:

EPA - Region VII  
Attn.: Regional Hearing Clerk  
c/o Mellon Bank  
P.O. Box 360748M  
Pittsburgh, Pennsylvania 15251

A copy of the check shall be mailed to:

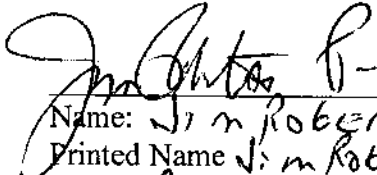
Jenna Wischmeyer  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
901 North 5th Street  
Kansas City, Kansas 66101

2. Respondent's failure to pay the civil penalty assessed herein in accordance with the provisions of this Order may result in the commencement of a civil action in Federal District Court to collect said penalty, together with costs and interest thereon at the applicable statutory rate.

3. Compliance with the terms of this CAFO satisfies all claims arising out of the facts alleged in the Complaint. This CAFO shall terminate after satisfaction by Respondent of the requirements of this Final Order.

4. This executed CAFO shall be filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, 901 North 5<sup>th</sup> Street, Kansas City, Kansas 66101.

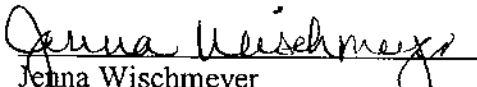
**For the Respondent:**

  
Name: Jim Robertson  
Printed Name: Jim Robertson  
Title: PRER

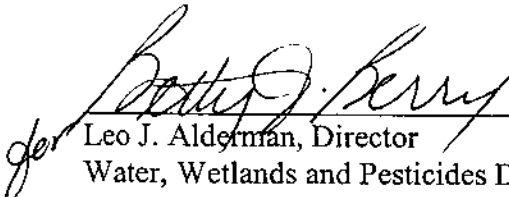
12-8-07  
Date

**For the Complainant:**

The United States Environmental Protection Agency


  
Jenna Wischmeyer  
Assistant Regional Counsel

12-12-03  
Date

  
Leo J. Alderman, Director  
Water, Wetlands and Pesticides Division

12/16/03  
Date

IT IS SO ORDERED. This Final Order is effective upon its final entry by the Regional Judicial Officer.

  
Robert Patrick  
Regional Judicial Officer

Dec. 18, 2003  
Date

IN THE MATTER OF Robertson Properties, Inc., Clymar Estates, Respondent  
Docket No. CWA-07-2003-0296

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Jenna Wischmeyer  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

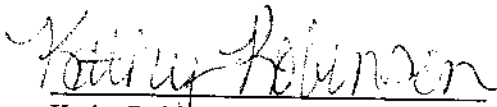
Copy by Certified Mail Return Receipt to:

Sherwin L. Epstein, Esq.  
Marcus G. Abbott, Esq.  
Law Offices of Sherwin L. Epstein & Associates  
1700 Commerce Tower  
911 Main Street  
Kansas City, Missouri 64105

Copy by First Class Pouch Mail to:

The Honorable Susan L. Biro  
Chief Administrative Law Judge  
U. S. Environmental Protection Agency  
401 M Street, S.W./Mail Code 1900L  
Washington, D. C. 20460

Dated: 12/19/03

  
Kathy Robinson  
Regional Hearing Clerk